

Appl. No.: 10/749,762  
Amdt. dated 09/20/2006  
Reply to Office Action of March 20, 2006

**Amendments to the Drawings:**

The attached sheets of drawings include changes to Figures 2 and 3. These sheets replace the original sheets including Figures 2 and 3. In Figures 2 and 3, the splice in the coating is designated by newly added reference numeral 43.

Attachment: Replacement Sheets 2/5 and 3/5

**REMARKS**

The allowance of Claims 9-14 and 31-36 and the confirmation that Claims 2, 8, 26 and 28-30 would be allowable if rewritten in independent form is appreciated. Of the allowable claims, Claims 2 and 26 have been rewritten in independent form and should be in condition for immediate allowance. However, the remaining claims, that is, Claims 1, 3-7, 25 and 27 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,694,976 to Stanley W. Warshaw. As described below, independent Claims 1 and 25 have been amended to further highlight patentable distinctions between the claimed invention and the cited reference.

The Official Action also objects to the drawings for failing to show the splice that is recited in Claims 2 and 26. As such, replacement sheets that include Figures 2 and 3 are submitted herewith in which an illustrated embodiment to the splice set forth by Claims 2 and 26 is denoted by reference numeral 43. Additionally, the paragraph of the specification that bridges pages 13 and 14 of the present application and that references the splice has also been amended so as to refer to the splice with reference numeral 43. No new matter is matter is added by the replacement sheets or by the amendment to the specification as the splice was previously illustrated at least by original Figure 2 and was described by the present application, as originally filed, in the paragraph that bridges pages 13 and 14. *See*, for example, page 13, line 33- page 14, line 3 of the present application which states “[t]o insure that the sealing member 12 may be disengaged and engaged within the receiving aperture 24 and/or the at least one engagement member 34, 36, as shown in Figures 2 and 3, respectively, the coating(s) may be applied such that there is a splice in the coating 42 at the point coincident with the distal end of the seal portion 16.” As such, it is submitted that the objection to the drawings is therefore overcome.

Based on the foregoing amendments and the following remarks, Applicant respectfully requests reconsideration of the present application and allowance of the current set of claims.

Independent Claim 1 is directed to an apparatus for sealing at least two surfaces that includes a sealing member having an attachment portion fixed to one of the surfaces and a seal portion connected to the attachment portion and including a deformable segment. In addition to

the sealing member, the apparatus of independent Claim 1 includes a receiving aperture defined by at least one of the surfaces and adapted to receive and retain the deformable segment of the seal portion of the sealing member. As now amended, independent Claim 1 recites that the deformable segment is positioned fully within the receiving aperture. *See*, for example, Figures 3, 4C and 4D. Independent Claim 1 further recites a coating disposed on the sealing member and the at least two surfaces. The coating is defined to extend continuously across the sealing member and at least one of the surfaces.

Similarly, independent Claim 25 is drawn to a method of sealing at least two surfaces and includes the steps of fixing the attachment portion of the sealing member to one of the surfaces and positioning a deformable segment carried by the sealed portion of the sealing member within a receiving aperture defined by at least one of the surfaces. Independent Claim 25 has also been amended to further define that the deformable segment is positioned fully within the receiving aperture. *See* again, Figures 3, 4C and 4D, for example. The method of independent Claim 25 also includes that the application of a coating on the sealing member and the at least two surfaces is such that the coating extends continuously across the sealing member and at least one of the surfaces.

In contrast to amended independent Claims 1 and 25, the expansion joint covering of the Warshaw '976 patent does not teach or suggest that the deformable segment of a sealing member is positioned fully within a receiving aperture. Instead, the portion of the expansion joint covering that is considered by the Official Action to be analogous to the deformable segment, that is, the cushioning strip 11, is described and illustrated by the Warshaw '976 patent to be "of inverted U-shaped cross section." *See* column 2, line 55 and Figure 3 of the Warshaw '976 patent. In other words, the portion of the expansion joint covering that bridges the gap between structural members is bowed upwardly and away from the gap defined between the structural members. As such, only the very endmost corners of the cushioning strip are shown to be within the aperture defined between the structural members with the vast majority of the cushioning strip protruding out of and away from the gap defined by the structural members. Thus, the Warshaw '976 patent does not teach or suggest a deformable segment that is positioned fully

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within a receiving aperture as recited by amended independent Claims 1 and 25. For at least this reason, the rejection of independent Claims 1 and 25, as well as Claims 3-7 and 27 which depend therefrom, is overcome.

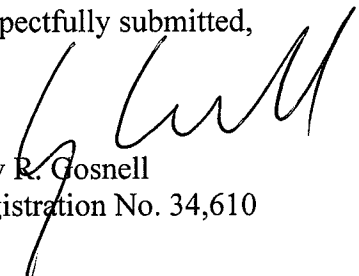
### **CONCLUSION**

In view of the amendments to the claims and the specification, the submission of the replacement drawings and the remarks present above, Applicant respectfully submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is respectfully requested. In order to expedite examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

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It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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